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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,548

01/06/2005

Masanori Itoh

OKUDP0105US

3263

43076

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01/22/2009

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EXAMINER

CHOWDHURY, NIGAR

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

01/22/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/520,548	<b>Applicant(s)</b> ITO, MASANORI	
	<b>Examiner</b> NIGAR CHOWDHURY	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed on 10/14/2008 have been fully considered but they are not persuasive.
2. In re pages 9-14, applicant argues that Sasaki et al. fails to disclose the data recorded on the tape complies with the MPEG-2 system standard. Applicant also argues that the examiner cited paragraph 0038, 0049, 0053, and 0066 does not support the cited limitation of claim 1. Paragraph 0038 discloses the invention in Sasaki et al. may be used with data in accordance with various different standards, paragraph 0049 discloses the recording of the data takes into account the variable-length and coding used in MPEG-2, paragraph 0053 discloses conversion of data which has been provided in accordance with the MPEG-2 standard, paragraph 0066 discloses data being reproduced in accordance with the MPEG-2 standard.

In response, the examiner respectfully disagrees. Sasaki et al. discloses from paragraph 0039 that "...video signals and audio signals are compression-encoded according to the Moving-Picture-Experts-Group-Phase-2...method....MPEG2 is a combination of motion-compensation predictive encoding and compression encoding by the use of discrete cosine transform....", paragraph 0052 that "...The stream converter...collects DCT coefficients arranged in each DCT block according to the MPEG2 specification, by their frequency components through a plurality of DCT blocks constituting one macroblock and rearranges the collected frequency components. The rearranged converted elementary stream is sent to a packing and shuffling section..",

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paragraph 0066 that “....The stream converter ...performs the processing reverse to that performed by the stream converter 106 at the recording side....the reproduced signal is converted to an elementary stream conforming to MPEG2”. Sasaki et al. discloses a compressing section for generating encoded data, complying with MPEG-2 system standard, converting section for collecting DCT coefficients arranged in each DCT block according to the MPEG2 system and rearranging the collected frequency component, packing and shuffling section receives encoded data (complying with MPEG2 system standard) for generating a macroblock into a fixed frame. Stream converter does not convert the system from MPEG2 to other system, it rearranges the DCT coefficients. During reproduction, the stream converter arrange DCT coefficients for each frequency component in DCT blocks (don't convert MPEG2 system to any other system), the reproduction signal is converted to an elementary stream conforming to MPEG2. Therefore, Sasaki meets the limitation of recording and reproducing of data, complying with the MPEG2 system standard.

3. In re page 8-9, applicant argues that claim 11 “defines the structure of the encoded data, auxiliary information, attribute information, and....”

In response, the examiner respectfully disagree. Claim 11 recites a stream data stored in the storage medium which does not impart functionality to a computer or computing device, and is thus considered nonfunctional descriptive material. Such non functional descriptive material, in the absence of the functional interrelationship with a

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computer, does not constitute a statutory process, machine, manufacture or composition of matter and is thus non-statutory per se.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 11 is rejected under 35 U.S.C 101 because the claimed invention is directed to non-statutory subject matter as follows. Claim 11 recites a **stream data stored in the storage medium** which does not impart functionality to a computer or computing device, and is thus considered nonfunctional descriptive material. Such non functional descriptive material, in the absence of the functional interrelationship with a computer, does not constitute a statutory process, machine, manufacture or composition of matter and is thus non-statutory per se.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-7, 11-17 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2003/0070040 by Sasaki et al.

6. Regarding **claim 1**, a data processor comprising:

- a receiving section for receiving video data and audio data (fig. 1, paragraph 0050, 0056);
- a compressing section for generating encoded data, complying with the MPEG-2 system standard, by encoding the video data and the audio data received (fig. 1, paragraph 0050, 0056);
- an auxiliary information generating section for generating auxiliary information, which includes reference information to make reference to the encoded data and attribute information that uses a video object unit (VOBU) of the encoded data as a sample unit and that describes an attribute of the sample unit (fig. 1, 6, paragraph 0058, 0084-0085);
- a writing section for writing the encoded data and the auxiliary information on a storage medium as a data file complying with the MPEG-2 system standard and an auxiliary information file, respectively, wherein the encoded data is decodable by either the auxiliary information file or the MPEG-2 system standard (fig. 1, 6, paragraph 0050, 0056, 0058, 0084-0085).

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7. Regarding **claim 2**, the data processor wherein the reference information represents the file name and storage location of the data file stored on the storage medium (fig. 6, paragraph 0084-0085).

8. Regarding **claim 3**, the data processor wherein the compressing section generates the encoded data as a plurality of sets, and wherein the auxiliary information generating section generates the reference information that makes reference to each set of encoded data (fig. 6, paragraph 0050, 0056, 0084-0085).

9. Regarding **claim 4**, the data processor wherein the compressing section generates the encoded data as a plurality of sets (fig. 1, paragraph 0010, 0013, 0040, 0043, 0046), and wherein the auxiliary information generating section generates stream data as a single stream by arranging the plurality of sets of encoded data as a series (paragraph 0051, 0058, 0084-0085, 0113), and also generates auxiliary information that further describes location information specifying the storage location of the encoded data if the data size of the encoded data is not constant every time the data is read (fig. 1, 6, paragraph 0013, 0045, 0084-0085, 0111-0112).

10. Regarding **claim 5**, the data processor wherein the compressing section generates the encoded data as either an MPEG-2 program stream or an MPEG-2 transport stream (fig. 1, paragraph 0039, 0052).

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11. Regarding **claim 6**, the data processor wherein the auxiliary information generating section describes an audio frame of encoded audio data, representing the audio data of the encoded data, as another sample unit in the attribute information (fig. 1, 0056-0058, 0068).

12. Regarding **claim 7**, the data processor wherein the compressing section generates first, second and third data files, the second data file including frame data that is needed to decode the encoded data of the first and third data files continuously with no time gap left (fig. 3-5, 10).

13. **Claim 11** is rejected for the same reason as discussed in the corresponding claim 1 above.

14. Regarding **claim 12**, a data processor for processing stream data, the stream data comprising:

- encoded data included in a data file complying with the MPEG-2 system standard; and auxiliary information included in an auxiliary information file (fig. 1, paragraph 0050, 0056),
- wherein the encoded data is obtained by encoding video data and audio data in accordance with the MPEG-2 system standard, and is decodable by either the auxiliary information or the MPEG-2 system standard (fig. 1, paragraph 0050, 0056), and



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- wherein the auxiliary information includes: reference information to make reference to the encoded data; and attribute information that uses a video object unit (VOBU) of the encoded data as a sample unit and that describes an attribute of the sample unit (fig. 1, 6, paragraph 0058, 0084-0085),
- the data processor comprising:
- a reading section for reading the auxiliary information file from the stream data and also reading the data file in response to a control signal (fig. 2, paragraph 0060-0061, 0070);
- a reading control section for generating, as the control signal, a signal instructing that the data file be read in accordance with the reference information defined by the auxiliary information of the auxiliary information file (fig. 2, paragraph 0060-0072);
- a decoding section, which receives the encoded data from the data file read and the auxiliary information and which decodes the encoded data into the video data and the audio data in accordance with the attribute information included in the auxiliary information (fig. 2, paragraph 0060-0072);
- an output section for outputting the video and audio data decoded (fig. 2, paragraph 0060-0072).

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15. **Claims 13-14** are rejected for the same reason as discussed in the corresponding claim 1 above

16. **Claims 15-16** are rejected for the same reason as discussed in the corresponding claim 12 above

17. **Claim 17** is rejected for the same reason as discussed in the corresponding claim 1 above

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0070040 by Sasaki et al.

19. Regarding **claim 8**, Sasaki discloses the data processor wherein the auxiliary information generating section generates an auxiliary information file but fails to disclose auxiliary information that is described in the MP4 format.

It is noted that the use of MP4 is old and well-known in the recording art. Therefore, official notice is taken. Moreover, it would have been obvious to one having

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ordinary skill in the art at the time the invention was made to have a well-known MP4 to compress the video and audio data for having more space in the storage medium.

20. Regarding **claim 9**, Sasaki discloses the data processor wherein the auxiliary information generating section generates an auxiliary information file but fails to disclose auxiliary information file that is described in the QuickTime format.

It is noted that the use of QuickTime format is old and well-known in the recording art. Therefore, official notice is taken. Moreover, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a well-known QuickTime format which maintain tracks in a hierarchal data structure consisting of objects called atoms. An atom can be a parent to other atoms or it can contain media or edit data, but it cannot do both. QuickTime format is particularly suited for editing, as it is capable of importing and editing in place (without data copying)

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIGAR CHOWDHURY whose telephone number is (571)272-8890. The examiner can normally be reached on 9 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NC  
01/01/2009

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